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EXAMINER

MANSEN, MICHAEL R

ART UNIT

PAPER NUMBER

3654

DATE MAILED: 04/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/926,175

Applicant(s)

RUCKMANN ET AL.

Examiner

Michael R Mansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-71 is/are pending in the application.
- 4a) Of the above claim(s) 36,40-45 and 56-70 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35,37-39,46-55 and 71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Claims 36, 40-45, and 56-70 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 10.

Applicant's election with traverse of Species I, Figures 1-7, claims 35, 37-39, 46-55, and 71 in Paper No. 10 is acknowledged. The traversal is on the ground(s) that claims 35, 37-39, 53, 55, and 71 are generic because they read on all of the claimed inventions. Applicants' arguments are persuasive. As argued by applicants, the above stated claims are generic to all of the claimed species. Upon allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all of the limitations of an allowed generic claim as provided by 37 CFR 1.141.

The requirement is still deemed proper and is therefore made FINAL.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the

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list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "toothed belt" in claim 49, line 1 and the "cable" in claim 50, line 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The drawings are objected to because the following are elements not shown in the figures: the "slide surface 126" on page 12, line 11; the "web pickup line 20" on page 18, line 16; the "slit 99" on page 34, lines 6 and 14-15; the "recess 101" on page 35, lines 12, 15 and 16; and the "staple closer 200" on page 48, line 13; and reference numerals "33", "34" and "124" identify more than one element between Figures 1, 21, 31 and 32; and reference numerals "13" and "14" do not have lead lines in Figure 2.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is

requested in correcting any errors of which applicant may become aware in the specification. The following is examples of the inconsistencies.

Reference numeral "27" identifies two elements on page 22, line 2, "hopper 27" and on line 10, "roller 27". Reference numerals "26" and "27" identify two elements each on page 25, lines 6-7, "hopper folding roller 26, 27" and on page 27, line 11, "hopper folding units 26, 27". Reference numerals "33", "34", and "124" each identify four different elements on page 24, line 2, and page 28, line 1, "endless traction means 33, 34, 124"; on page 25, line 3 and page 33, line 5, "finite traction means 33, 34, 124, 87"; on page 30, line 4, "flexible traction means 33, 34, 124" ; and on page 30, line 11, "chain-like traction means 33, 34, 124". Reference numeral "35" identifies two elements on page 28, line 11, "needles 35" and on page 29, lines 5 and 6, "spikes 35". On page 35, line 15, "fig. 23" should be changed to --fig. 33--. Reference numeral "107" identifies two elements on page 36, line 9, "right element 107" and on page 37, line 2, "sleeve element 107". Reference numeral "106" identifies two elements on page 37, line 1, "left element 106" and on line 4, "pin element 106". Reference numerals "155" and "156" identify two elements on page 38, line 14, "'catch area' of upper 155, 165" and on page 46, line 11, "cover plates 155, 165".

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 35, 37-39, 46-53, 55, and 71 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 35, lines 7-8, “means for causing said spikes to penetrate the paper web only during draw-in of the paper web into a web-fed rotary printing press” is vague and indefinite. What disclosed structure is being referred to by the “means” plus function phrase?

With respect to claim 38, lines 1-3, “wherein the...longitudinal folding hopper” is vague and indefinite. Are applicants claiming the subcombination of the drawing device or the combination of the drawing device and the web-fed rotary printing press? How does the longitudinal folding hopper relate to and further define the drawing device in claim 35? If the web-fed rotary printing press is being claimed, then applicants should show the printing device in the figures.

With respect to claim 39, lines 1-2, “no spikes penetrate a paper web during printing of the paper web” is vague and indefinite. Are applicants inferentially claiming printing of the paper web? Where is the printing shown in the Figures? What structure are applicants claiming?

With respect to claim 46, line 1, “said draw-in means” has no antecedent basis.

With respect to claim 49, line 1, “wherein said belt is a toothed belt” is vague and indefinite. What structure is being claimed? How do the plurality of spikes relate to the teeth in the toothed belt?

With respect to claim 53, line 1, "wherein said retention device is a barb" is vague and indefinite. What constitutes a "barb"?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 35, 37-39, 51, 52, 55, and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer (U.S. Patent 4,619,449).

Fischer discloses a device for drawing at least one paper web (8) comprising a paper web draw-in (2) for drawing in a paper web (8) along a web transport path, a plurality of spikes (6) permanently attached to the paper web draw-in, said spikes (6) being adapted to penetrate through a paper web (8) and means for causing said spikes to penetrate the paper web (8) only during draw-in of the paper web (8) into a web-fed rotary printing press that includes a longitudinal folding hopper (1). With respect to the means for causing, the fact that the spikes (6) rotate around the roller (2) away from the paper web causes the spikes to only penetrate the paper web (8) during draw-in and not to penetrate the paper web (8) while the spikes are away from the web (8) or in there storage path. With respect to claim 51, the draw-in (2) has a circumference that is a finite length.

Claims 35, 37, 39, 46, 47-49, 51, 52, 55, and 71 are rejected under 35 U.S.C. 102(b) as being anticipated by Assony (U.S. Patent 3,367,549).

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Assony discloses a device for drawing at least one paper web (10) comprising a paper web draw-in (11, 12, 15) for drawing in a paper web (10) along a web transport path, a plurality of spikes (21) permanently attached to said paper web draw-in (11, 12, 15) and means (25) for causing said spikes (21) to penetrate the paper web (10) only during draw-in of the paper web (10) into a web-fed rotary printing press. With respect to claim 52, Assony discloses that the paper web (10) is retained on the spikes (21), therefor each of the spikes (21) includes a paper web retention device. Assony further discloses that the draw-in (11, 12, 15) is in the form of belt that could be metallic or a material that is not metallic (Column 2, lines 56-58).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Assony (U.S. Patent 3,367,549).

Assony, as advanced above, do not disclose a the draw-in device being made of a cable. Draw-in devices being made of cables are well known for there durability and simplicity. It would have been obvious to one of ordinary skill in the art to provide Assony with cables for the draw-in device, because of there durability and simplicity as is well known in the art.

Allowable Subject Matter

Claim 53 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record does not disclose or suggest a device for drawing at least one paper web including all of the claim limitations in claims 35 and 52 wherein each of the plurality of spikes includes a barb as a paper web retention device as set forth in claim 53.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R Mansen whose telephone number is (703) 308-2655. The examiner can normally be reached on 9 hour days with Second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on (703) 308-2688. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

A handwritten signature in black ink, appearing to read "Michael R. Mansen", with a long horizontal flourish extending to the right.

Michael R Mansen
Primary Examiner
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mrn
April 17, 2003